IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.MC.No. 1311 of 2007()

CRIME NO.314 OF 1992 OF NEYYATTINKARA POLICE STATION
C.C.338/96 OF J.F.C.M-I, NEYYATTINKARA

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PETITIONER:

NADARAJAN ACHARI, S/O.PADMANABHANACHARI,
SIVAMANGALAM, POOVAR ROAD, NEYYATTINKARA
VILLAGE.

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. MANOHARAN, S/O.MURUGAN,
ATTUPALATHIL VEEDU,
KALKULAM, KANYAKUMARI.

3. THAMPYBAL, S/O.VELUPILLAI,
T.C.40/1281 CHALAI, MANACAUD,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1311 of 2007

Dated this the 4th day of June, 2007

ORDER

Petitioner's application for release of articles in the possession of the court was dismissed by the impugned order and the petitioner claims to be aggrieved by the said order. The case has a chequered career by now and the crime was registered as early as in 1992. Investigation was completed. Charge sheet was filed under Section 457 and 380 read with 34 I.P.C. There were two accused persons. One of them who was available for trial was found not guilty and acquitted. The other is absconding. Steps are afoot to secure the presence of the absconding accused. He was not available for trial for the last 15 years. Material objects are the ones thieved from the jwellery shop run by the petitioner. Thieved articles have been seized. The learned Magistrate did not release the articles in favour of the petitioner. The petitioner came to this Court and Annexure-C order was issued. Thereafter, the learned Magistrate, by the impugned order, directed the release of the articles, but subject to conditions. The petitioner is aggrieved by two conditions only. One of those conditions obliges him to make a cash security of Rs.25,000/-.

2. The learned counsel for the petitioner submits that the petitioner shall abide by all other conditions, but the conditions imposed as conditions 1 and 4 may be deleted/modified, it is prayed.

3. Condition No.1 is that the petitioner must furnish a cash security of Rs.25,000/-. Condition No.4 is that the material objects must be produced without changing its nature and character.

4. The learned counsel for the petitioner submits that the other conditions oblige the petitioner to execute a bond for Rs.1 lakh and to get photographs taken of all the material objects to the satisfaction of the Court. In these circumstances, the unnecessary insistence on conditions 1 and 4 would cause great hardship and difficulties to the petitioner. In these circumstances it is prayed that conditions 1 and 4 may be deleted.

5. I have gone through the records of the case. I have considered the submissions made at the bar. The learned Public Prosecutor fairly does not oppose the prayer for deletion/modification of conditions 1 and 4. I am satisfied that, even without conditions 1 and 4 also, the interests of the prosecution and the interests of a fair trial of the absconding accused, if his presence is later secured, are adequately and sufficiently taken care of.

6. In the result, this Crl.M.C is, allowed. Conditions 1 and 4 imposed on the petitioner are hereby deleted.

(R.BASANT, JUDGE)

rtr/-